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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

FREDERICK JUSTIN WEEKLY,

Defendant and Appellant.

D074806

(Super. Ct. No.SCD263909)

APPEAL from a judgment of the Superior Court San Diego County, Louis Hanoian, Judge. Affirmed.

A jury convicted Frederick Justin Weekly of first-degree murder (Pen. Code,<sup>1</sup> § 187, subd. (a)). The jury also found true an allegation that Weekly personally used a firearm inflicting injury (§ 12022.53, subd. (d)). The court sentenced Weekly to an indeterminate term of 25 years to life for the murder conviction plus a consecutive term of 25 years to life for the firearm allegation. On appeal, this court affirmed the

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

conviction and the finding on the enhancement but remanded the case to the trial court to permit it to exercise its newly granted discretion to strike the enhancement. This court also directed the trial court to correct the restitution order.<sup>2</sup>

On remand, the trial court declined to strike the enhancement and reinstated the original sentence. The restitution order had previously been corrected and the abstract of judgment amended. Weekly filed a timely notice of appeal.

Appellate counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) indicating he has not been able to identify any arguable issue for reversal on appeal. Counsel asks this court to review the record for error as mandated by *Wende*. We offered Weekly the opportunity to file his own brief on appeal, but he has not responded.

## DISCUSSION

In compliance with *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel has identified the following possible, but not arguable issue for our consideration in our review of the record: Whether the trial court abused its discretion in declining to strike the firearm enhancement.

We have reviewed the entire record as mandated by *Wende* and *Anders*. We have not identified any arguable issue for reversal on appeal. Competent counsel has represented Weekly on this appeal.

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<sup>2</sup> The facts and procedure of the original trial are fully set forth in our prior opinion following the first appeal. (*People v. Weekly* (Mar. 16, 2018, D071294) [nonpub. opn.].)

DISPOSITION

The judgment is affirmed.

HUFFMAN, J.

WE CONCUR:

BENKE, Acting P. J.

IRION, J.